

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 23-80101-CR-CANNON

UNITED STATES OF AMERICA,

v.

DONALD J. TRUMP,
WALTINE NAUTA, and
CARLOS DE OLIVEIRA,

Defendants.

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NOTICE OF SUPPLEMENTAL AUTHORITY

Defendants, by and through the undersigned counsel, and pursuant to Local Rule 7.8 of the Local Rules of Criminal Procedure, hereby submit this supplemental authority to their Motion to Dismiss (Feb. 28, 2024) (ECF No. 352) (originally submitted *ex parte* Feb. 22, 2024).

With respect to Count 38 of the Superseding Indictment, the Special Counsel's Office has now abandoned any reliance on 18 U.S.C. § 2(a); instead invoking § 2(b) (despite any lack of reference to the same in their opposing memorandum). Regardless, causing innocent persons to make *literally-true* statements does not violate §§ 2(b) and 1001, even if reliance on the statements misleads. Liability does not arise under §2 (b) for causing conduct by someone lacking knowledge/willfulness unless the *actus reus*—the action *caused*—is criminal, substituting defendant's willfulness for the actor's innocence. Section 2(b) “render[s] criminally liable a person causing another to commit *criminal* acts” even though the otherwise criminal act is committed innocently. *United States v. Ruffin*, 613 F.2d 408, 414 (2d Cir. 1979) (emphasis added). See *United States v. Tobon-Builes*, 706 F.2d 1092, 1101 (11th Cir. 1983) (approving *Ruffin*'s analysis of §2(b)'s history and purpose; applying it to §1001).

Date: May 24, 2024

Respectfully submitted,

s/ Stanley E. Woodward, Jr.
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Counsel for Defendant Waltine Nauta

CERTIFICATE OF SERVICE

I hereby certify that on May 22, 2024, I electronically submitted the foregoing via CM/ECF, to counsel of record.

s/ Sasha Dadan